

Remarks***A. Claim Status***

Claims 13-25 are pending. Claims 13-19, 22, and 25 were rejected. Claims 20, 21, 23, and 24 were objected to. Claim 13 has been amended. Claims 1-12 and 26-53 have been canceled.

B. Information disclosure statement

The Examiner pointed out that the cited US patent application (serial #10/306940) submitted in the Information Disclosure Statement on 10/9/2003 was not a publication. Applicants thank the Examiner for considering US Patent Application Publication #20040203437 instead, which is the published version of the cited application.

C. Allowable subject matter

The indication in the Office Action that Claims 20-21 and 23-24 are drawn to allowable subject matter is noted with appreciation. The Applicants believe that all pending claims are allowable, and have therefore elected at this time to defer rewriting Claims 20-21 and 23-24 in independent form, pending consideration of this response.

D. Claim objections

Claims 13-25 were objected to because Claim 13 referred to "making measurements" and "new measurements". It was not clear whether a later reference to "said measurements" referred to the initial measurements, or the new measurement. Appropriate correction was required.

Claim 13 has been amended to overcome this objection.

E. Claim Rejections under §102

Claims 13-19, 22 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 344 026 to Spicer.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent 13 of the present application recites a measurement method using mobile probes comprising, among other things: “augmenting said model using said new measurements” (emphasis added). This exemplary feature has not been found in Spicer.

Spicer as cited at page 6, states

“Referring back to Figure 3, the "ability" indication, the quality of reception,(optionally) the time of reception, and the predicted and estimated BERs are stored (step 306) in the first and second storage devices 208,210 and are not confidential, or secret, and can be retrieved at a later time for use by both the user and the service provider in order to verify the user's ability to receive the received signal service at the undisclosed location.” (emphasis added)

The office action states that “use by both user and service provider requires that ability condition was saved and made available to both user and service provider, thereby augmenting provided model”(page 4, 2nd paragraph of office action), which anticipates claim 13 of the present application. Applicants respectfully disagree with this characterization. Spicer teaches a system of determining whether a user’s mobile terminal was actually able to receive an RF signal broadcast by a service provider. Spicer’s system helps a service provider verify whether a user’s allegations of not being able to receive the paid-for signal service are true, and whether the user owes payment.

Spicer discloses that a propagation model of the service provider’s signal is stored in the mobile terminal itself. This propagation model predicts received signal strengths at a given position in a geographical area using information stored in a database. (Spicer page 4, last paragraph).

When a user activates the mobile terminal, the location of the mobile terminal is determined. Based on its stored propagation model, the mobile terminal uses the location information to determine the predicted signal strength, predicted noise power, predicted Bit Error Rate (BER), and other strength-of-service indicators,. (Spicer page5, last

paragraph). The mobile terminal also estimates its actual BER. The “ability indicator” is a comparison of the predicted service indicators and the actual BER – the ability indicator (along with other strength-of-service indicators) is stored in the mobile terminal.

At a later point in time, such as when a user claims that the signal service was not received, the service provider can pull the stored strength-of-service indicators out from the mobile terminal and determine whether the user’s claims have any merit. (Spicer page 6, 2nd paragraph). These stored values are used to verify whether a user’s claim of not receiving service may be true. Therefore, the stored values “augment” the service provider’s understanding of a user’s claim by either substantiating the user’s claim or disproving the user’s claim. The stored values do NOT “augment” the propagation model that was provided to the mobile terminal – they do not add to an understanding of the propagation model, only to an understanding of a user’s claim.

In distinct contrast, the present application does teach augmentation of a provided model. For example, page 8, paragraph 26 of the present application states in relevant part:

“If [a newly acquired point] reinforces the model this is noted at 204; if the point detracts then it is evaluated further at 205 to decide whether to discard it at 206 as likely faulty or to replace one of the n values at 207 with the newly acquired point, particularly if such replacement would give a better model.

Also, page 9, paragraph 27 of the present application states in relevant part:

“[T]he present invention may be used to improve existing models in an intelligent fashion starting with the premise that a model is in place with some analysis, and that model analysis can be used from a mathematical point of view to help incorporate new data, either by saying the measurement is not adding any significant benefit to this model, the measurements disagree with the model, or the measurement is a new point.

See also Figure 2, steps 203-207.

For at least these reasons, Spicer fails to anticipate Applicant’s invention as recited in independent Claim 13. Accordingly, Applicant respectfully requests that the §102 rejection of Claim 1 be withdrawn. Dependent claims 14-25 are also all believed to be allowable, based on the allowability of claim 13.

Conclusion

If there are any further questions or if more discussion is required, the Examiner is invited to call the Applicant's agent at the telephone number given below. In view of the above, the claims presently in the application are believed to be distinct over the cited references and in condition for allowance. Accordingly, it is respectfully requested that such allowance be granted at an early date.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 50-1078 from which the undersigned is authorized to draw.

Respectfully submitted,
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